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SEP 13 2005

OFFICE OF PETITIONS

In re Application of
KIRKWOOD et al.
Application No. 09/823,819
Filed: March 30, 2001
Attorney Docket No. 50325-0528

DECISION
ON PETITION

This is a decision on the petition filed June 25, 2005 based on 37 CFR 1.137(b) for revival of the above-identified application.

The petition is **DISMISSED** as being moot.

A final rejection was mailed to Applicant on November 30, 2004. On January 19, 2005 (certificate of mailing of January 14, 2005), Applicant filed on an amendment under 37 CFR 1.116 within two months of the mailing of the final rejection. To this date, no Advisory Action or Notice of Allowance has been mailed. However, Applicant notes a PAIR entry of "Notice of Allowability – Allowance Counted." This entry dated February 28, 2005 provides the necessary evidence that Examiner found the amendment of January 19, 2005 fully responsive to the final rejection and placed the case *prima facie* in condition for allowance. Since the after-final amendment was timely filed and fully responsive to the final rejection of November 20, 2004, the application is still pending.

The petition fee of \$1500 for the petition to revive based on 37 CFR 1.137(b) is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 2161 for further processing.

Brian Hearn
Petitions Examiner
Office of Petitions